

## **Commissioner of Income Tax, Madras v. Brakes India Ltd.**

Civil Appeal No. 1287 (NT) of 1982

[1993] 2 SCR 993 | 1993-04-06

**Whether salary admittedly exempt under former section 10(6)(vii) counted as income chargeable under Salaries above Rs 7,500 for the second proviso to former section 40(c)(iii), so as to sustain the employer's perquisite disallowance.**

10(6)(vii) | 40(c)(iii), second proviso, as applicable to AY 1965-66

2-judge bench; single unsigned Court order | B.P. Jeevan Reddy, J. | N. Venkatachala, J.

Assessment years: 1965-66

### **IMPORTANT: HISTORICAL EMPLOYER-DEDUCTION RULE AND ADMITTED TECHNICIAN EXEMPTION**

This order concerns AY 1965-66, the former section 40(c)(iii) ceiling and salary admittedly exempt under section 10(6)(vii). It does not establish that every foreign technician's pay is exempt or that nil income has the same consequences throughout the Act. The earlier ceiling provision was replaced under 1968 legislation; subsequent ceiling provisions also changed, and section 10(6)(vii) was omitted with effect from 1 April 1993. Verify the exact assessment-year text and actual exemption. Comprehensive later treatment, current-law applicability and Income-tax Act 2025 mapping remain NOT VERIFIED.

## 01 FACTS OF THE CASE

For AY 1965-66, Brakes India paid its foreign technical director total remuneration of Rs 66,000, including Rs 28,576 in perquisites. The Income-tax Officer applied former section 40(c)(iii), allowed Rs 13,200 of perquisites and disallowed the remaining Rs 15,376. He considered the employee's income chargeable under Salaries to exceed Rs 7,500, so he did not apply the second proviso's exclusion (physical page 2/SCR 994 E-G). These are the amounts and descriptions printed in the order; the note does not substitute a reconstructed cash-salary figure for the reported total remuneration or recompute the officer's ceiling.

The Appellate Assistant Commissioner allowed the company's appeal because the director's salary was exempt under section 10(6)(vii). The Tribunal allowed the Revenue's appeal: it considered that exemption did not prevent section 40(c)(iii) from operating and treated the director as an employee whose salary exceeded the threshold. At the company's request, it referred whether that provision had rightly been invoked for AY 1965-66. The Madras High Court answered for the company. The Revenue appealed from the High Court's 22 February 1978 judgment in Tax Case 24/1975 through Civil Appeal 1287 (NT)/1982 (physical pages 2-3/SCR 994 C-995 C).

Source: See the proposition-specific paragraph and PDF-page references below.

## 02 DISCUSSION BY THE HON'BLE COURT

The Court identified the precise interpretive issue as the words concerning income chargeable under the head Salaries in the second proviso. The historical main provision disallowed expenditure on benefits, amenities or perquisites above one-fifth of the salary payable for the relevant period of employment after 29 February 1964. The second proviso removed from that sub-clause expenditure on an employee whose income chargeable under Salaries was Rs 7,500 or less (physical pages 3-4/SCR 995 D-996 A).

The Court described the former technician provision and expressly treated the director's salary exemption under section 10(6)(vii) as admitted. It therefore did not decide whether the director satisfied every underlying qualification, approval or time limit for that exemption. The High Court's reasoning was that exempt salary did not enter total income and consequently counted as nil income for this particular proviso. Nil, like a positive sum below Rs 7,500, fell within its threshold. The second proviso accordingly excluded the expenditure from the operation of the main sub-clause (physical page 4/SCR 996 B-E).

After hearing both sides, the Supreme Court held that this was a reasonable view and saw no ground to interfere. The relationship decided was between an employee's admitted statutory salary exemption and an employer's historical deduction restriction. The employer's deduction issue must not be recast as a fresh exemption granted to the director, as a ruling that the company received the director's salary, or as a universal rule for every reference to income elsewhere in the Act. No outside precedent is cited in the primary order.

Source: See the proposition-specific paragraph and PDF-page references below.

### 03 JUDICIAL DECISION

The Revenue's appeal failed and was dismissed, with no costs. The favourable High Court answer concerning AY 1965-66 remained undisturbed: former section 40(c)(iii) could not sustain the impugned perquisite disallowance because the admitted exempt salary counted as nil for its second proviso (physical page 4/SCR 996 E-F).

Source: See the proposition-specific paragraph and PDF-page references below.

### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Brakes India Ltd., the employer assessee

Revenue appeal dismissed

Reasoned final interpretation of the historical second proviso; no remand

Admitted employee exemption and AY 1965-66 statutory wording only.

Source: See the proposition-specific paragraph and PDF-page references below.

### 05 AKHB REVIEW POINT

Identify the person being assessed, the person receiving the salary, the exact exemption and the precise ceiling provision before applying this order. The critical distinction is between remuneration actually paid and income legally chargeable under Salaries. Preserve proof that the relevant salary is exempt; the Supreme Court proceeded on that admission rather than deciding the exemption's factual requirements.

The law was time-specific. C.W.S. (India) Ltd. v. CIT, 1 March 1994, records the replacement of section 40(c)(iii) by section 40(a)(v) under the Finance Act 1968 and the subsequent section 40A(5) regime. The checked 2011 government-hosted compilation records omission of section 40(c) with effect from 1 April 1989 and of section 10(6)(vii) with effect from 1 April 1993. Those checks establish historical change, not a current deduction entitlement.

A bounded reading of the Madras High Court's Lucas TVS judgment dated 11 April 1997 shows later use of Brakes India in a different statutory setting. It limited exclusion to the remuneration actually exempt and rejected the claim to exclude all remuneration. Its reproduced discussion describes Brakes India using subsection (viia), but this primary order specifies subsection (vii). Keep the versions distinct. AKHB REVIEW POINT is editorial analysis.

Source: See the proposition-specific paragraph and PDF-page references below.

### DETAILED DISPOSITION AND CONNECTED GROUPS

**Costs:** No costs

**Monetary effect:** The Rs 15,376 perquisite disallowance was not sustained under the provision in issue; no refund amount or payment direction was quantified.

### **Proceeding outcomes**

1.

**Case number:** Civil Appeal No. 1287 (NT) of 1982

**Parties:** Commissioner of Income Tax, Madras v. Brakes India Ltd.

**Appellant role:** Revenue

**Assessment years:** 1965-66

**Underlying proceeding:** Madras High Court Tax Case No. 24 of 1975; judgment dated 22 February 1978

**Outcome:** Dismissed; High Court's answer favouring the assessee-company left undisturbed

**Costs:** No costs

**Pinpoint:** Physical page 2/SCR 994 C; page 4/SCR 996 E-F

### **PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**

1.

**Source url:** [Open cited source](#)

**Pdf pages:** 2; 3

**Paragraphs:** Facts, assessment year, amounts, prior proceedings and question: SCR 994 C-995 C

**Source role:** Judicial text unless expressly described as editorial headnote or appellate recital

2.

**Source url:** [Open cited source](#)

**Pdf pages:** 3; 4

**Paragraphs:** Historical text, nil-income reasoning and disposition: SCR 995 D-996 F

**Source role:** Judicial text unless expressly described as editorial headnote or appellate recital

### **SEPARATE JUDICIAL OPINIONS AND READING BOUNDARIES**

1.

**Author:** The Court; no individual author named

**Type:** Single reasoned final order

**Read bounds:** Physical 2 E-4 F/SCR 994-996

**Holding:** Admitted exempt salary treated as nil for the historical Rs 7,500 threshold; Revenue appeal dismissed without costs.

### **ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS**

Sections 30 to 39 in the historical section 40 opening; Later sections 40(a)(v) and 40A(5) only in bounded editorial historical checks

### **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

The Court; no individual author specified in the reported order

**ACT IDENTIFIED IN THE REVIEWED SOURCE**

Income-tax Act, 1961

**SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS**

1.

**Source:** C.W.S. (India) Ltd. v. CIT, 1 March 1994

**Url:** [Open cited source](#)

**Pinpoints:** Physical pages 4-6/SCR 250-252

**Result:** Bounded historical statutory-sequence comparison, not direct approval or overruling of Brakes India.

**Status:** bounded only

2.

**Source:** 2011 government-hosted Income-tax Act compilation

**Url:** [Open cited source](#)

**Pinpoints:** Physical 87/printed 1.46 and 300/1.259

**Result:** Omission of technician subsection (vii) from 1 April 1993 and of section 40(c) from 1 April 1989 recorded; no full amendment-chain or current-law certification.

**Status:** bounded only

3.

**Source:** Lucas TVS Ltd. v. CIT, Madras High Court, 11 April 1997

**Url:** [Open cited source](#)

**Pinpoints:** Paragraphs 15 and 17; complete displayed paragraphs 1-19 read

**Result:** Uses Brakes India in later foreign-technician ceiling analysis; exclusion confined to actually exempt remuneration. The reproduced subsection (viia) reference does not replace Brakes India's subsection (vii).

**Status:** bounded later high court application only

**BOUNDED NON-PDF SOURCES AND READING LIMITS**

1.

**Kind:** bounded later judgment web text

**Title:** Lucas TVS Ltd. v. Commissioner of Income Tax, Madras High Court, 11 April 1997

**Url:** [Open cited source](#)

**Source format:** Judicial text reproduced by Indian Kanoon, read through web extraction

**Accessed at utc:** 2026-10-05T23:09:42+00:00

**Full bounded judicial text read:** True

**Read bounds:** Judicial text paragraphs 1-19, web lines 40-163; direct Brakes India discussion at paragraph 15 and exemption-amount limitation at paragraph 17.

**Physical text pages read:**

**Physical image pages read:**

**Provenance:** Complete displayed judicial text read; no PDF, image inspection, raw HTML hash or court-file authentication. Returned tool text retained separately; citation labels differ across search renditions, so no reporter citation is certified.

**Source cautions:** Paragraph 15 describes Brakes India using section 10(6)(vii), whereas the Brakes India primary report repeatedly specifies section 10(6)(vii). This secondary rendition of a later judicial discussion is not allowed to alter the target holding or statutory subsection.

**Reliance limit:** One later High Court application only, not a comprehensive citator or current-law review.

## RETAINED PDF SOURCE CHECKS AND READING LIMITS

1.

**Kind:** bounded auxiliary primary or official source

**Title:** Income Tax Act 2011, Directorate of Income Tax (PR, PP & OL), government-hosted Taxmann compilation

**Url:** [Open cited source](#)

**Source file:** later\_checks/DOR\_IT\_Act\_English\_2011\_compilation.pdf

**Sha256:** 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

**File bytes:** 8394755

**Pdf pages:** 1251

**Physical text pages read:** 42; 49; 86; 87; 299; 300; 301

**Physical image pages read:** 1; 42; 49; 87; 300

**Full document read:** False

**Read bounds:** Cover image; physical 42/printed 1.1, 49/1.8, 87/1.46 and 300/1.259 supply the relied-on commencement and historical amendment checks. Text 86,299,301 read for context. No complete statutory or legislative-chain review.

**Provenance:** Retained government-hosted compilation copied unchanged. Hash 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b, 8,394,755 bytes and 1,251 pages match the retained provenance. This is a 2011 compilation, not a 2026 current-law text or independently authenticated Gazette.

**Current law certification:** False

2.

**Kind:** bounded auxiliary primary or official source

**Title:** C.W.S. (India) Ltd. v. CIT, judgment dated 1 March 1994

**Url:** [Open cited source](#)

**Source file:** later\_checks/CWS\_1994\_reported.pdf

**Sha256:** 17506dee04906f136da6cdac4e44e51aa76749c57f9eaba18920f827781d59f2

**File bytes:** 282590

**Pdf pages:** 10

**Physical text pages read:** 1; 3; 4; 5; 6; 9; 10

**Physical image pages read:** 1; 4; 5; 10

**Full document read:** False

**Read bounds:** Selected identity, legislative-history and closing pages only. Reliance confined to SCR 250-252/physical 4-6: replacement of former section 40(c)(iii) by section 40(a)(v), subsequent section 40A(5), and its omission. No direct treatment of Brakes India or full merits rereview claimed.

**Provenance:** Retained eSCR public-mirror PDF reused unchanged; hash 17506dee04906f136da6cdac4e44e51aa76749c57f9eaba18920f827781d59f2, 282,590 bytes and 10 pages match existing provenance. Separate official High Court PDF endpoint timed out; no raw retry or bypass was made. The already retained rendition supplies the bounded reading.

**Current law certification:** False

## SOURCE & VERIFICATION

### Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 4 PDF pages; SHA-256 596c1b67401fc7acc8179b0c1fda3bc41d541e91938058fe3f07d69a0b125c67. Original bytes preserved.

### Open cited source rendition

full primary text read: True; all primary page images reviewed: True; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

SCR report citation, printed date, bench and complete docket verified from the source images. Catalogue INSC label is preserved as metadata only and is not independently authenticated here as a neutral citation.

Only AY 1965-66 is decided. The 1993 decision date does not make the historical 1965-66 provisions current in 1993 or today.

## STATUTORY SCOPE

No Income-tax Act 1961 to Income-tax Act 2025 equivalence, commencement, transition, savings or automatic precedent carryover certified. Bounded checks are recorded separately.

## LATER TREATMENT

Source checked 2026-10-05. Bounded primary judicial and official historical-statutory checks are listed separately. No comprehensive citator search, present validity certificate or Income-tax Act 2025 mapping has been completed.

## IDENTIFIED SOURCE LINKS

### reported judgment - PDF pages: 4

SHA-256: 596c1b67401fc7acc8179b0c1fda3bc41d541e91938058fe3f07d69a0b125c67

### bounded auxiliary primary or official source - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

### bounded auxiliary primary or official source - PDF pages: 10

SHA-256: 17506dee04906f136da6cdac4e44e51aa76749c57f9eaba18920f827781d59f2

### Lucas TVS Ltd. v. Commissioner of Income Tax, Madras High Court, 11 April 1997

**AI DISCLOSURE**

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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